

**REMARKS/ARGUMENTS**

In view of the amendments and remarks herein, favorable reconsideration and allowance of this application are respectfully requested. By this Amendment, claims 1-3, 22, 26, and 30-33 have been amended. Thus, claims 1-33 are pending for further examination.

**Housekeeping Matters**

The Examiner is kindly requested to indicate that Applicant's request for priority has been perfected, at least in view of the re-submission of the priority documents with the Amendment/Response filed on September 14, 2007.

**Rejections under 35 U.S.C. § 103(a)**

Turning now to the rejections on the merits, claims 1-7, 9, 13-14, 16-17, 19-23, 26-27 and 30-33 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Darling (WO 93/23125) in view of Kim (U.S. Patent Publication No. 2002/0160838). Claims 8, 10-12, 15, and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Darling and Kim, and further in view of Yoshizawa (U.S. Patent No. 6,045,477). Claims 24-25 and 28-29 stand rejected as allegedly being unpatentable over Darling and Kim, and further in view of Haartsen (U.S. Patent No. 6,804,542). These Section 103 rejections are respectfully traversed for at least the following reasons.

The Examiner is thanked for providing the further explanation included in the Final Office Action. Following the style employed in the Final Office Action, the arguments presented in connection with Amendment/Response dated September 14, 2007 are maintained, modified, and incorporated herein. The Examiner is thanked for providing the additional clarifying comments in the Final Office Action, which are addressed herein.

Page 3 of the Final Office alleges that “[1] When the prior art is combined, there is no need for a central server because one of ordinary skill in the art would know that Darling’s system does not require a central server because it already possesses the capability of exchanging items without said server. . . . [2] Furthermore, the server of Kim can be interpreted as the revolving master server of Darling (wherein all the machines in the network take turns acting as a master/server device as discussed above) and so the communications and exchange of items takes place between the game apparatus and not a server” (enumeration added). Applicant respectfully submits that both of these allegations are technically inaccurate and improper as a matter of U.S. patent law.

First, Applicant notes that the Darling and Kim, at least as relied on in the Final Office Action, represent two different -- and completely conflicting -- approaches to solving somewhat similar problems. Pages 14-15 of Darling do appear to suggest that the game machines may each include a database with a single game machine being designated a master and being responsible for updating the databases of the other game machines. This arrangement makes some sense in the context of Darling, which is directed to enabling a plurality of handheld game apparatuses to communicate between themselves so that a game may be played.

In marked contrast to this teaching of Darling, however, Kim clearly teaches a central instant message server 40 including a central database server 44. The central instant message server 40 of Kim helps overcome some problems that Kim has observed with the prior art including, for example, the fact that central game servers are sometimes difficult to design and implement, and often become overwhelmed when many users connect thereto. Kim appears to solve this problem by essentially off-loading many of the ancillary features that could be enabled via a central game server to a separate central instant message server 40 with its own central

database server 44. Thus, Kim teaches player computers 10 accessing, via the Internet 2, a central game-content server 20 for distributing game content and a wholly separate central instant message server 40 for enabling certain ancillary features.

As such, Darling and Kim represent completely different design approaches to the general problem of sharing data between multiple game apparatuses. In particular, Darling involves a rotating master apparatus that enables other apparatuses to mirror its master database, whereas Kim provides a centrally accessible messaging server having a centrally accessible database. One of ordinary skill in the art at the time of the invention would not have combined the distributed or rotating server approach of Darling with the centralized server approach of Kim, since these techniques are conflicting and mutually contradictory.

Indeed, the proposed combination would change the principle of operation of one or both of the prior art references, since Darling would have to use a central server/database in addition to its decentralized game content servers, and/or since Kim would have to function without a central game content server and without a central instant message server and database accessible via a central network like the Internet. Thus, the proposed modification or combination of Darling and Kim would change the principle of operation of the prior art inventions being modified, dictating that the teachings of the references are insufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810 (CCPA 1959).

Moreover, the proposed combination would render one or both of the prior art references unsatisfactory for its/their intended purposes, since Darling is intended to work without a central server and since Kim is intended to supplement the features provided by a central server. Thus, there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984).

Second, Applicant respectfully submits that the Final Office Action's allegation that the server of Kim can be interpreted as the revolving master server of Darling is incorrect. Darling arguably does teach a revolving master server but, as demonstrated above, Darling's master server is replicated or mirrored to the other devices. By contrast, the instant message server 40 and the database server 44 thereof in Kim is centrally accessible by all of the game devices through a common network (i.e., the Internet). The central instant message server 40 of Kim is not located on, or accessible through, any individual player computer 10. Indeed, the instant message server 40 cannot be so located or so accessible, since such an arrangement would create the very problems that Kim seeks to avoid -- namely, one of Darling's "rotating servers" (i.e., a game apparatus) would become overwhelmed by the constant requests and updates provided therethrough. Rather, the instant message server 40 of Kim is centrally located and accessible through a network, and not through an intermediary device. Indeed, in Kim, the player computers 10 do not appear to be directly connected to each other at all. Thus, the server of Kim cannot be interpreted as the revolving master server of Darling as alleged in the Final Office Action.

Finally, Applicant notes that currently amended claim 1 requires that "said game data exchanger of said first game apparatus and said game data exchanger of said second game apparatus . . . directly exchange, in a case both of the exchange conditions are satisfied, the providing game data of said first game apparatus for the providing game data of said second game apparatus, on a game apparatus to game apparatus basis." The other independent claims require similar features. Neither Darling, nor Kim, nor the alleged combination thereof, teach or suggest this feature of claim 1 or the similar features of the other independent claims.

In contrast to this feature of claim 1, Darling discloses replicating an entire database from a rotating master server when such updates are required. Thus, although game data is exchanged through this database, it is done so on a system-wide basis and not on a game-apparatus to game-apparatus basis, as required by the claims. Kim, on the other hand, enables player computer to player computer transmissions, but does so through a central server as shown above and is not an exchange of game data, *per se*. Therefore, the combination of Darling and Kim, even if appropriate, still would fail to teach or suggest a game apparatus to game apparatus exchange of game data. As such, the prior art of record, alone and in combination, fails to teach or suggest the above-noted feature of claim 1, and the similar limitations of the other independent claims.

The introduction of the other references (namely, Yoshizawa and Haartsen) fail to make up for these deficiencies with respect to the alleged Darling and Kim combination.

In view of the above, reconsideration and withdrawal of the Section 103 rejections are respectfully requested.

### **Conclusion**

In view of the foregoing remarks, Applicant believes that all of the pending claims are in condition for allowance. Thus, allowance of this application is earnestly solicited.

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Should the Examiner have any questions regarding this case, or deem that any formal matters need to be addressed, the Examiner is invited to call the undersigned attorney at the phone number below.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:



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Joseph S. Presta  
Reg. No. 35,329

JSP/JR:lmj  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100